

E-Filed 11/9/10

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CLAUDE & PAMELA BENNETT,

Plaintiffs,

v.

SUNTRUST MORTGAGE, INC.,

Defendant.

Case No. 5:10-CV-03375-JF (HRL)

ORDER¹ DENYING MOTION FOR
EXTENSION OF TIME; GRANTING
MOTION TO DISMISS WITH LEAVE
TO AMEND; VACATING HEARING
DATE; AND CONTINUING CASE
MANAGEMENT CONFERENCE

[re: document nos. 13, 18, 20]

On August 2, 2010, Plaintiffs Claude and Pamela Bennett, proceeding *pro se*, filed their original complaint against Defendant Suntrust Mortgage, Inc. Plaintiffs allege violations of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* and other related claims. On September 13, 2010, Defendant filed a motion to dismiss Plaintiffs' complaint. The Court concludes that this motion is appropriate for determination without oral argument and will vacate the hearing date of November 12, 2010. *See* Civ. L.R. 7-1(b).

Under this Court's Civil Local Rules, Plaintiffs' opposition was due at least twenty-one days before the noticed hearing date of November 12, 2010, or by October 22, 2010. Plaintiffs did not file any opposition papers. Instead they filed a motion for an extension of time to file

¹ This disposition is not designated for publication in the official reports.

1 opposition on November 2, 2010, which will be denied as untimely. Because the motion to
2 dismiss appears well-taken and is unopposed, the motion to dismiss will be granted for the
3 reasons stated therein. Given Plaintiffs' *pro se* status and the fact that the operative complaint is
4 the original pleading, leave to amend will be granted. Any amended pleading shall be filed
5 within thirty (30) days after the date of this order.

6 **ORDER**

7 For good cause shown,

- 8 (1) Plaintiffs' motion for extension of time is DENIED;
9 (2) Defendant's motion to dismiss is GRANTED, WITH LEAVE TO AMEND;
10 (3) any amended pleading shall be filed within thirty (30) days after the date of this
11 order;
12 (4) the hearing date of November 12, 2010 is VACATED; and
13 (5) the Case Management Conference set for November 12, 2010 is CONTINUED to
14 January 14, 2011 at 10:30 a.m.

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16 DATED: November 9, 2010

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19 JEREMY FOGEL
20 United States District Judge
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1 A copy of this order has been served upon the following persons:

2 Claude & Pamela Bennett
3 508 Merrmann Drive
4 Monterey, CA 93940
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